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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/098,588	03/18/2002	Michihiko Yanagisawa	506212000600	7658

7590 01/14/2004

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EXAMINER

KACKAR, RAM N

ART UNIT	PAPER NUMBER
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1763

DATE MAILED: 01/14/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/098,588

Applicant(s)

YANAGISAWA ET AL.

Examiner

Ram N Kackar

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 December 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2,3,8 and 9 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 2,3,8 and 9 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
 - 2) ☐ Certified copies of the priority documents have been received in Application No. _____.
 - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Specification

1. The disclosure is objected to because of the following reasons.

Applicant has defined a term "half value width" in paragraph 4 and 5. This term is derived from the etch profile in a unit time. In absence of operating parameters, material to etch and units to display the etch depth distribution, no standard length is disclosed.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 2-3 and 8-9 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention for the following reasons. In these instances the radius of supporting face of wafer table is compared to objects whose length is variable. See MPEP 2173.05 (b).

In claims 2 and 8 in addition to comparing support face size to substrate size, it is also compared to an indefinite length parameter "half value width" referred to in the specification.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 2, 3, 8 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yanagisawa et al (US 5980769) in view of Shinozuka et al (US 6136213).

Yanagisawa et al disclose a local dry etching apparatus, gas activated species, wafer table with support face larger than disclosed substrate (Fig 11).

Yanagisawa et al do not disclose the radius of wafer table but disclose typical size of the nozzle to be 7 mm to 30 mm (Fig 15-16 and Col 2 lines 20-24).

Shinozuka et al disclose an etch profile of a similar local dry etching application and show that the etch depth is maximum at the central axis of the gas nozzle. Applying this to the situation where the nozzle is approaching the edge of the substrate, it is evident that for uniformity, the axis of the nozzle will have to reach at least the edge of the substrate.

This would therefore mean that at least half of the etch spot would be lying outside the edge of the substrate or the radius of table would be 3.5 to 15 mm larger than the substrate.

Since the claimed difference of radius of the substrate and table is found disclosed, the underlying structure of claim 2 and 8 being equivalent, is disclosed as well.

Response to Amendment

Applicant's arguments filed 12/16/2003 have been fully considered but they are not persuasive.

Regarding the objection to the specification the applicant has argued that half-value width is known and understood in the context of a Gaussian distribution applicable to many arts.

While, the meaning of half-value width has been adequately explained, the objection remains that since this length depends upon an etch profile which depends upon the units of time,

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units of etch depth, processing parameters and material of etch, this length could not be used as a standard unless these parameters are defined.

Applicant has not indicated if such a standard exists.

Regarding rejections under 35 U.S.C. 112, second paragraph, the claimed radius of the wafer table depends upon two variables. The first being the radius of the substrate, which is processed by the claimed apparatus, and second being a length related to processing parameters and the units used to display the resulting Gaussian distribution.

Following is quoted from MPEP.

“REFERENCE TO AN OBJECT THAT IS VARIABLE MAY RENDER A CLAIM INDEFINITE”

A claim may be rendered indefinite by reference to an object that is variable. For example, the Board has held that a limitation in a claim to a bicycle that recited “said front and rear wheels so spaced as to give a wheelbase that is between 58 percent and 75 percent of the height of the rider that the bicycle was designed for” was indefinite because the relationship of parts was not based on any known standard for sizing a bicycle to a rider, but on a rider of unspecified build. Ex parte Brummer, 12 USPQ2d 1653 (Bd.Pat. App. & Inter. 1989).

MPEP has further provided the guidelines as below.

WHEN A TERM OF DEGREE IS PRESENT, DETERMINE WHETHER A STANDARD IS DISCLOSED OR WHETHER ONE OF ORDINARY SKILL IN THE ART WOULD BE APPRISED OF THE SCOPE OF THE CLAIM

In this case neither a standard is disclosed nor the scope of the claim is apprised.

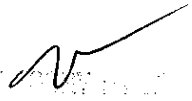
Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ram N Kackar whose telephone number is 703 305 3996. The examiner can normally be reached on M-F 8:00 A.M to 5:P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory Mills can be reached on 703 308 1633. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703 308 0661.

RK


SCIENCE & TECHNOLOGY EXAMINER
TELEPHONE CENTER 1760